

**Town of Underhill
Development Review Board Minutes
September 19, 2016**

Board Members Present:

Charles Van Winkle
Will Towle
Mark Green
Penny Miller
Karen McKnight
Matt Chapek

Staff/Municipal Representatives Present:

Andrew Strniste, Planning Director

Others Present:

Bill West (21 Warner Creek)
Steve Guay (58 River Road)
Diana Abdinoor (22 Warner Creek)
Albert Abdinoor (22 Warner Creek)
Alex Karner (24 Warner Creek)
Marty Baslow (65 Colonel Page Road, Essex, VT)
Wayne R. Russin (10 Otter Creek Underhill)
Robin Simard (1016 Main Steet, Colchester, VT)
Allen Simard (1016 Main Street, Colchester VT)
Roland Burroughs (46 Beartown Rd., Underhill)
Kyle Koeng (23 Warner Creek)

6:30 PM – 09/19/2016 Development Review Board Meeting

- [6:33] DRB Members convened at Town Hall at 6:33 PM. Chair Van Winkle called the meeting to order.
- [6:34] Chair Van Winkle advised the Board that three individuals asked to speak to the DRB during the public comment period: Stephen Guay, Roland A. Burroughs, and Marty Baslow.

6:35 PM – Public Comment – Stephen Guay

- [6:35] Stephen Guay shared with the Board the background regarding his Planned Resident Development. He informed the Board that during his PRD hearing process, a consensus was agreed upon that he was able to put an accessory apartment somewhere on the lot.
- [6:39] Staff Member Strniste informed the Board that the reason why Mr. Guay was invited to speak during the public comment session was to figure out the process of allowing the designated accessory apartment on the approved RPD to be moved to the existing barn. Since the Regulations do not speak to issue, Staff Member Strniste asked the Board if previously approved PRDs were amended by obtaining DRB approval, or if approval was administratively done.
- [6:44] Chair Van Winkle provided an overview of what the Board perceived to be the issued. Board Member Towle advised Mr. Guay that the DRB could only advise Staff Member Strniste, as the decision is ultimately his. Board Member Towle recommended that an PRD Amendment be brought in front of the Board as performed in the past.
- [6:47] Mr. Guay proceeded to discuss his desire to obtain another curb cut, as the current curb cut provides access to his business, which is located within the barn at issue. Mr. Guay added that if a resident were to use the same access, then the flow amongst the cars would be difficult. He also added that he wished to renovate the downstairs area of the existing barn to show products he builds.
- [6:51] Board Member Miller concluded Stephen Guay's public comment session by identifying the possible avenues Mr. Guay should proceed with. She suggested that Mr. Guay see Staff

Member Strniste to determine if a PRD Amendment should be issued and whether a variance/waiver should be obtained.

6:53 PM – Public Comment – Roland A. Burroughs & Allen Simard

- [6:53] Allen Simard began by explaining why he and his father-in-law were in front of the Development Review Board. He explained that his father-in-law had been paying taxes on 11 acres of land located in the Water Conservation zoning district (which requires a minimum lot size of 5 acres); however, he came to find out that the lot was actually a little less than 9 acres. Mr. Simard and Mr. Burroughs discovered that their neighbor's land was currently in a land contract, and therefore, they were unable to reach any deal regarding a boundary line adjustment.
- [6:59] Board Member Chapek asked Mr. Simard and Mr. Burroughs the number of acres each parcel would be upon the division of land. Mr. Simard and Mr. Burroughs responded by stating they proposed to divide the land into two parcels where one equaled approximately 5.3 acres and the other equaled approximately 3.6 acres.
- [7:02] Board Member Towle explained that in his experience, surveyors sometimes do not include the road, which may very well be owned by the adjacent resident, thereby under calculating how much land the property owner actually owns. Board Member Towle went on to recommend that Mr. Simard and Mr. Burroughs inquire with the surveyor to see if a similar mistake was possible.
- [7:04] A discussion ensued regarding the use of using PRD/PUD density bonuses to obtain an additional lot. Chair Van Winkle concluded that Mr. Simard and Mr. Burroughs look into the survey, as the DRB is not in a place to alter the Regulations and density bonuses to meet the minimum district requirements. Chair Van Winkle also recommended that an accessory dwelling was another possible solution.
- [7:15] Board Member Chapek clarified that Mr. Simard may buy a portion of a lot across the road to meet the district requirement if the lots' property lines abut somewhere in the road right of way; otherwise the lots would not be adjoining.
- [7:18] Staff Member Strniste clarified that deed research can be performed during the day at Underhill Town Hall.

7:18 PM – Public Comment – Marty Baslow regarding Warner Creek

- [7:18] Marty Baslow explained to the DRB that he wanted to get his concerns with the alleged Warner Creek issues on record. He proceeded by alleging the following violations with the subdivision: the house is out of the building envelope, the stormwater from lot 4 is running onto his lot (lot 5), the culverts were placed in the wrong location and are the wrong size, and that the alleged movement of the building footprint has altered the dynamics of the roadway.
- [7:25] Staff Member Strniste reiterated that Mr. Baslow requested to come before the Board to voice his concerns. Chair Van Winkle clarified where the Town is in regards to the issue at hand, which was that no violation has officially been issued. Board Member Towle explained that Mr. Baslow can appeal the Zoning Administrator's inaction, which would come before the DRB.
- [7:35] Mr. Baslow expressed his concern regarding the missing stakes that were placed at the site to mark the landmark locations. Mr. Karner explained that he lowered the stakes in order to make them less visible since they have been in place for a few months.

- [7:40] Mr. Abdinoor expressed his concerns regarding permanent landscaping modifications while waiting to hear from the lawyers and resolving the situation at hand. Mr. Baslow stated his concern regarding the utilization of his lot by way of his right-of-way.
- [7:44] Board Member Towle explained that the Development Review Board cannot fully remedy all of the problems, as the Board does not have jurisdiction over many of the issues expressed before the board. The issues that the Board does not have jurisdiction over will have to be resolved by the State or through the civil justice system. A discussion then ensued about Marty's options, which were to wait for Staff Member Strniste to issue a notice of violation or appeal Staff Member Strniste's inaction.
- [7:52] Chair Van Winkle reaffirmed that the Board cannot take evidence since this was a public comment session. He then gave an explanation of the appeal/notice of violation process.
- [7:53] Mr. Koeng asked the Board to notify all the residents of the Warner Creek Extension if the Warner Creek issues were brought in front of the Board. Staff Member Strniste reassured him that they would be part of the process moving forward.
- [7:56] Mrs. Abdinoor asked a clarification question regarding Zoning Violations and what they would apply too. The Board assured her that the houses received Certificates of Occupancy, and that the Zoning Violation in this case would apply to the infrastructure. Board Member Towle proceeded to explain what a Certificate of Occupancy encompasses.
- [7:59] Mr. Baslow asked about the subdivision amendment process, and whether they can be done for already approved subdivisions, and more specifically, what happens when a house is out of the building envelope. Chair Van Winkle explained that a violation is typically issued and that a proposed amendment would come before the DRB as a public hearing.
- [8:06] End of Public Comment

8:07 PM – Other Business

- [8:07] The Board briefly discussed the ramifications of the Baslow subdivision, and then discussed what actions should be taken regarding Certificates of Occupancy and Compliance moving forward. Board Member Towle was concerned that the process in which the Town issued Certificates of Compliance would make them unappealable. Furthermore, once the Certificate's appeal period ends, then the likelihood of it being overturned is slim. Staff Member Strniste informed the Board that the Town is no longer issuing Certificates of Compliance.
- [8:18] Chair Van Winkle recommended that the Board go back to the past practice of requiring a letter from the engineering saying everything was built according to plan as a way to minimize liability for the Town due to the concerns with the Certificate of Occupancy.
- [8:22] Board Member Towle informed Staff Member Strniste that the Certificates of Occupancy should contain better language.
- [8:25] Chair Van Winkle made a motion to approve the minutes of the previous Development Review Board meeting (July 18, 2016). The Board approved unanimously.
- [8:28] The discussion regarding Certificates of Occupancy resumed.
- [8:41] The Board explained that proposed changes to a previously approved PRDs were typically brought in front of the Board for an amendment (previous example – Piney Grove); however, the decision was ultimately the Zoning Administrators.
- [8:42] Staff Member Strniste gave a brief synopsis of the Burroughs situation. He stated that while the situation is unfortunate, there are several parcels in the Town of Underhill that miss the minimum subdivision lot size threshold. While there is a provision that allows the Development Review to grant a waiver or modification to lot dimensions, thus decreasing the

minimum lot size without the evidence of a unique circumstance, the Board would be going down a "slippery slope."

- [8:43] A discussion ensued on the best date to conduct a joint meeting with the Planning Commission. October 12th was chosen as the best date given the schedules of the Board and the Planning Commission.
- [8:45] Staff Member Strniste provided a brief explanation of the October 3rd hearing items, as well as potential hearings in October and November.
- [8:59] A brief discussion ensued about building envelopes, which was a continuation of a discussion from the previous meeting. Board Member Miller provided a document that showed what other towns do with regards to building envelopes.
- [9:03] Staff Member Strniste provided an update to the Board that he would be assuming the duties of the Zoning Administrator position, as the previous Zoning Administrator resigned.
- [9:03] Staff Member Strniste then asked the Board if there was anything that they wanted him to do or perform differently. The Board recommended that DropBox be used in an effort to transfer files easier.
- [9:07] A brief discussion ensued about the Capital Improvement Plan. The Board was in favor of getting a projector and a screen. Board Member Towle recommended an Elmo Projector. Board Member Towle also recommended that the upstairs should be improved to increase the ability to meet upstairs. Recommended improvements included upgrades to the curtains, lights, acoustics, and heating system.
- [9:15] Chair Van Winkle made a motion to adjourn. The Board approved unanimously.

These meeting minutes reflect a summary of the topics discussed at the Monday, September 19, 2016 meeting. An audio recording of the meeting is available to the public.

Submitted by:

Andrew Strniste, Planning Director & Zoning Administrator

These minutes of the 09/19/2016 meeting of the DRB were accepted
this 21 day of OCTOBER, 2016.



Charles Van Winkle, Chairperson